

App. No. 10/084,258
Amendment Dated June 10, 2005
Reply to Office Action of February 10, 2005

REMARKS/ARGUMENTS

Claims 1-22 are pending in this application. The Office Action, dated February 10, 2005: rejected claims 1-15 under 35 U.S.C. 101, rejected claims 1-9, 11,12, 15-22 under 35 U.S.C. 103(a). Claims 1, 10, 16 and 22 have been amended to further clarify the invention. No new subject matter has been added. For at least the following reasons, Applicants respectfully submit that the pending claims are in condition for allowance, and notice to that effect is requested.

Rejection of Claims 1-15 under 35 U.S.C. 101

The Office Action rejected Claims 1-15 under 35 U.S.C. 101 because they do not comfortably fit into anyone of the statutory subject matter.

Applicants have amended Claim 1 to clearly point out that the method is a computer-implemented method.

The examiner stated that as per independent claim 10, a modulated data signal embodied in a carrier wave is non-statutory subject matter. Applicants respectfully disagree. The support for a modulated data signal may be found in Applicants' specification on page 8. Additionally, the US Patent Office has issued many patents having modulated data signal claims. Claim 10 has been amended to conform to a currently accepted format of the US Patent Office for modulated data signal claims. The Applicants respectfully request the rejections be withdrawn.

Rejection of Claims 1-3, 5, 7-9, 11, 16, 17 and 20-22 under 35 U.S.C. 103(a)

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Claims 1-3, 5, 7-9, 11, 16, 17 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Crow* (U.S. Patent No. 6,262,724) in view of *Adams* (U.S. publication No. 2002/0124100).

The Office Action states that at paragraph 0048, *Adams* discloses detecting attributes of a device. *Adams* only discloses configuring a presentation "based upon a user identification or predetermined settings configured when the presentation is provided to the device." In contrast, amended claim 1 recites "detecting attributes relating to media play back capabilities relating to a device that is coupled to a network." *Adams* only teaches detecting attributes relating to user "media play back settings," such as whether audio play back should be spoken or sung (See *Adams* at paragraph 0048) not attributes relating to media play back capabilities." User playback settings are not attributes relating to "media playback capabilities." Accordingly, *Adams* fails to meet the structural limitations of amended claim 1.

Adams teaches determining attributes relating to an "audio enabled web page" (See *Adams* at paragraph 0046). A web page is not a device but rather a collection of data served to a user.

Amended Claim 1 also recites "automatically playing the rich media presentation." The Office Action states that, regarding *Crow*, "the display of a presentation without saving the data is the same as automatically playing the presentation." The applicants respectfully disagree. Playing a presentation without saving the data is not at all similar to "automatically playing the presentation." *Crow* plays a presentation after a user selects "a play button 216 and a pause button 212 which allow play back and pausing of a (currently selected) time-based media file"

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(See *Crow* at col. 7 lines 22-25). Accordingly, *Crow* does not teach or suggest claim 1.

Applicants believe that all of the cited references fail to teach or suggest the recitations of amended claim 1. For at least these reasons, amended claim 1 is submitted to be patentable and allowance is solicited.

Regarding Applicant's claim 2, claim 2 depends from amended claim 1 that applicants submit is allowable. Because dependant claim 2 contains all of the elements of amended claim 1 as well as additional recited elements that further limit its scope, applicants believe dependant claim 2 is allowable for at least the same reasons.

Furthermore, dependant claim 2 also contains the additional recitation of "determining when a rich media presentation is contained within the email, the banner ad, and the page." The Office Action states that "*Crow* further discloses determining when a rich media presentation is contained within the email, the banner ad, and the page (column 5, lines 54-58; column 6, lines 16-20)." The applicants respectfully disagree. *Crow* discloses only the general accessing of data provided by a web server (see *Crow* at column 5, lines 54-58; column 6, lines 16-20). *Crow* does not disclose the additional step of determining when a rich media presentation is contained within an email, banner ad, or page. Accordingly, applicants believe that *Crow* fails to meet the structural limitations of claim 2. For at least these reasons, claim 2 is submitted to be patentable and allowance is solicited.

Regarding Applicant's claims 10, 16 and 22, amended claims 10, 16 and 22 also contain similar limitations as amended claim 1 and are submitted to be patentable for at least the reasons stated above.

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Dependant claims 3, 5, 7-9, 11, 17 20 and 21 depend from claims 1, 10 and 16, that applicants submit is allowable. Because dependant claims 3, 5, 7-9, 11, 17 20 and 21 contain all of the elements of claims 1, 10 and 16 as well as additional recited elements that further limit its scope applicants believe dependant claims 3, 5, 7-9, 11, 17, 20 and 21 are allowable for at least the same reasons.

Rejection of Claims 1, 4, 6, 12-15, 18 and 19 under 35 U.S.C. 103(a)

Claims 1, 4, 6, 12-15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Crow* and *Adams* in further view of *Wade* (U.S. Pub. No. 2002/0019831).

Regarding amended claim 1, the Office Action fails to recite a specific basis for rejecting claim 1 under 35 U.S.C. 103(a) as being unpatentable over *Crow* and *Adams* in further view of *Wade*. For at least the reasons discussed above, Claim 1 is allowable as amended. Additionally, it is respectfully requested that claim 1 be given its full consideration, where the Applicants have a fair opportunity and notice as to what basis of rejection is being made. As such, it is respectfully requested that its rejection under 35 U.S.C. 103(a) as being unpatentable over *Crow* and *Adams* in further view of *Wade* be withdrawn.

Regarding Applicant's claims 4, 6, 12-15, 18 and 19, dependant claims 4, 6, 12-15, 18 and 19 depend from amended claims 1, 10 and 16 that applicants submit is allowable. Because dependant claims 4, 6, 12-15, 18 and 19 contains all of the elements of claims 1, 10 and 16 as well as additional recited elements that further limit its scope applicants believe dependant claims 4, 6, 12-15, 18 and 19 are allowable for at least the same reasons.


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In view of the foregoing amendments and remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

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